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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/586,369	07/18/2006	Klaus Bohmhammel	292187US0PCT	2990
22850	7590	10/09/2007		
OBLON, SPIVAK, MCCLELLAND MAIER & NEUSTADT, P.C. 1940 DUKE STREET ALEXANDRIA, VA 22314				
			EXAMINER NGUYEN, NGOC YEN M	
			ART UNIT 1793	PAPER NUMBER
			NOTIFICATION DATE 10/09/2007	DELIVERY MODE ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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Office Action Summary

Application No.

10/586,369

Applicant(s)

BOHMHAMMEL ET AL.

Examiner

Ngoc-Yen M. Nguyen

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-12 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-12 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. ____.
 - ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|--|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date ____ | 6) <input type="checkbox"/> Other: ____ |

DETAILED ACTION

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-12 are rejected under 35 U.S.C. 103(a) as being unpatentable over JP 57-118017 in view of Yamanaka et al (6,653,212), optionally further in view of Rodgers (3,933,985).

JP '017 discloses a process for producing SiHCl_3 in high yield. In the process, SiCl_4 is mixed with H_2 in 4:1 to 1:10 molar ratio and introduced into the first reactor B, and by electrifying a graphite resistance 1, the interior of the reactor B is heated to 500-1,300°C to produce SiHCl_3 as well as HCl by-product in the presence of catalyst 9 (note English abstract). In JP '017, any unreacted reactants can be transferred to the second reactor to further produce SiHCl_3 . It would have been obvious to one skilled in the art to recycle any excess reactants in order to minimize cost.

The SiCl_4 to H_2 ratio as disclosed in JP '017 overlaps the claimed range. With respect to the encompassing and overlapping ranges previously discussed, the subject matter as a whole would have been obvious to one of ordinary skill in the art at the time of invention to select the portion of the prior art's range which is within the range of the applicants' claims because it has been held prima facie case of

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obviousness to select a value in a known range by optimization for the results. *In re Boesch*, 205 USPQ 215. Additionally, the subject matter as a whole would have been obvious to one of ordinary skill in the art at the time invention was made to have selected the overlapping portion of the range disclosed by the reference because overlapping ranges have been held to be a prima facie case of obviousness. *In re Malagari*, 182 USPQ 549.

For the pressure, space velocity for the reaction, it would have been obvious to one of ordinary skill in the art to optimize these conditions through routine experimentation in order to obtain the best results.

For the construction material for the reactor of JP '017, it would have been within the skill of the artisan to select a construction material for the reactor that can withstand the reaction conditions.

The difference is JP '017 does not disclose the use of a metal heating element (the heating element in JP '017 is a graphite resistance).

Yamanaka '212 discloses a thin film forming apparatus comprising a vacuum chamber, a substrate, a thermal catalyst, and a heating means for heating the thermal catalyst, wherein a gas introduction system for introducing a gas is connected to the vacuum chamber and wherein the gas is fed from the gas introduction system into the vacuum chamber to form a thin film on a surface of the substrate by utilizing a thermal decomposition reaction and a catalytic reaction by the thermal catalyst, the gas introduction system introduces a carrier gas containing hydrogen and a material gas for forming the thin film on the substrate, and the apparatus comprises a means for raising

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a concentration of the material gas in the vacuum chamber in the middle of the formation of the thin film on the substrate (note claim 1).

The thermal catalyst contains at least one type of material selected from a group consisting of tungsten, tungsten containing thoria, platinum, molybdenum, palladium, tantalum, metal deposited ceramics, silicon, alumina, silicon carbide, refractory metals (tungsten, tantalum, tungsten containing thoria, molybdenum, titanium, etc.) coated with silicon carbide or ceramics or conductive nitride films, silicon nitride or oxide, conductive metal nitrides (tungsten nitride, titanium nitride, molybdenum nitride, tantalum nitride, etc.), boronitride (BN), and silicide (note claim 24). The thermal catalyst is preferred to be a wire made of tungsten, palladium, tantalum or molybdenum (note column 32, lines 63-65). The thermal catalyst 5 is not limited to one formed into a coil as shown in Figures 1-3. It is also possible to form it into a grid as shown in FIG. 6. The grid-like thermal catalyst is formed by for example assembling a plurality of wires having predetermined lengths in a grid and joining assembly portions of the wires by welding or the like. Further, it is also possible to form the thermal catalyst by winding a wire, coil, or the like of the thermal catalyst one or more times around a high heat resistant insulator such as ceramics, and quartz glass. Alternatively, it is also possible to press it to a flat metal plate to form the grid (note paragraph bridging column 43-44). The power supply in the present example is a DC power supply or an AC power supply or a power supply wherein the AC is superposed on the DC and is selected in accordance with the situation. By adjusting the voltage and/or current of the power supply, it becomes possible to adjust the temperature of the thermal catalysts (note column 45, lines 1-10).

Yamanaka '212 also discloses that the apparatus can be used to produce a film of Si and Poly-Si, produced from SiH_4 , SiHCl_3 , SiCl_4 , etc. (note column 48, lines 52-54).

Thus, Yamanaka '212 fairly teaches that the thermal catalyst can be safely used in an atmosphere containing SiCl_4 , SiHCl_3 and H_2 .

It should be noted that the instant claims now require "bringing a gaseous feed mixture comprising hydrogen and silicon tetrachloride into direct contact with at least one heating element of a resistance heating device", however, there is no requirement that the heating device does serve as a catalyst for the process. In any event, for the combined teaching of JP '017 and Yamanaka '212, when the thermal catalyst, which is made from the preferred metals, tungsten, palladium, tantalum or molybdenum, is used in the process of producing SiHCl_3 , the thermal catalyst would inherently have the effect on the process as when the claimed heating element is used.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to use the thermal catalyst, as suggest by Yamanaka '212, for heating the reactor in the process of JP '017 because such thermal catalyst is used for same purpose in an analogous condition.

Optionally, Rodgers '985 can be applied to teach that when SiCl_4 is used to produce Si (as desired in the process of Yamanaka '212), the reaction between SiCl_4 and hydrogen is too slow, so the SiCl_4 normally reacts with hydrogen to form SiHCl_3 first then the SiHCl_3 is subsequently converted to Si.


Thus, Rodgers '985 fairly suggests that when SiCl_4 is used as the starting reactant in Yamanaka '212, the thermal catalyst in Yamanaka '212 may serve as a

catalyst to promote the formation of SiHCl_3 from SiCl_4 first, before the SiHCl_3 is converted to Si film.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ngoc-Yen M. Nguyen whose telephone number is (571) 272-1356. The examiner can normally be reached on Part time.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Stanley Silverman can be reached on (571) 272-1358. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.


Ngoc-Yen M. Nguyen
Primary Examiner
Art Unit 1754

nmn
September 30, 2007